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UNCLAS VIENNA 001482

SIPDIS

SENSITIVE

DEPARTMENT FOR EUR/OHI AND EUR/AGS

E.O. 12958: N/A

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SUBJECT: AUSTRIA REQUESTS U.S. CONTRIBUTION TO GENERAL

SETTLEMENT FUND ADMINISTRATIVE COSTS

This message is sensitive but unclassified.

1. (SBU) Ambassador met Parliamentary President Andreas Khol on May 3, at Khol's request, to discuss progress in claims processing under the General Settlement Fund (GSF) for Holocaust victims. Khol reported that decisions on cases were moving much more quickly now with the additional staff and new office space that the GoA had provided. The new U.S.-nominated Claims Committee adjudicator, Prof. Vivian Curran, was also contributing to the acceleration of claims processing.

2. (SBU) However, Khol said, Curran's pro bono activity on behalf of the Fund was now taking so much of her time that she was no longer able to keep up with her teaching duties at the University of Pittsburgh. As a result, the University had had to hire a replacement for her at an annual cost of more than \$50,000. Khol conceded that under the Washington Agreement and relevant Austrian law, the GoA could pay this amount out of the GSF as administrative costs. Khol said the GoA nevertheless wanted to use the GSF funds to pay the victims, not reduce the total by paying administrative costs. He thought that some of the victims whom the Fund was intended to benefit might resent this use of the money, and in particular, might question why the GoA was paying for the services of the U.S. Claims Committee adjudicator. Khol asked the USG to consider funding either all or part of the University of Pittsburgh request, as well as professional liability or errors and omissions insurance for Dr. Curran.

3. (SBU) The Ambassador responded that Embassy had been in close consultation with the Office of Holocaust Issues (OHI) on this subject. OHI had carefully researched the request. However, the Department's Legal Bureau had advised that there was no legal basis for such payments and the Ambassador was not optimistic that this decision could be reversed. The Ambassador urged the GoA to make provision for paying such administrative costs separately, or failing that, to pay them out of the GSF. Notwithstanding, the Ambassador assured Khol that he would report the Austrian government's request to the Department and ask the appropriate offices to reconsider the possibility of a USG reimbursement to the University of

Pittsburgh.

14. (SBU) Khol said the requirement to reimburse the University of Pittsburgh and pay insurance would be short term. Following establishment of legal peace, the GSF funds would be paid into an interest-bearing account, and the interest could be used to pay the University as well as insurance for Prof. Curran. He also told the Ambassador that the GoA was making progress in its talks with the Austrian Jewish Community (IKG) and that, in his view, the two sides were "very close" to a meeting of the minds that could facilitate the establishment of legal peace in the U.S.

(Embassy comment: Khol was almost certainly referring to the possibility of a settlement or dismissal of the Whiteman class action suit pending in Federal Court in New York.)

15. (SBU) In a related development, the subject of an amendment to the law establishing the GSF came up at a dinner on May 3 for former Deputy Treasury Secretary Stuart Eizenstat. Parliament will likely act soon to extend the deadline for applications for "in-rem" restitution of publicly owned real property. The deadline had been December 31, 2004, but some municipal governments have only recently joined the Austrian states and federal government in subjecting themselves to the in-rem arbitration process. Austrian MFA Legal Advisor Hans Winkler did not rule out the possibility that the amendment might also provide for in-rem restitution before the establishment of legal peace in the U.S. Winkler said he would seek a discussion of the idea within the GoA. (Note: the arbitration panel has so far issued one recommendation in favor of in-rem restitution.)

16. (SBU) ACTION REQUEST: Embassy asks that Department undertake a review of the Austrian government's request that the U.S. fund all or part of the reimbursement to the University of Pittsburgh for Dr. Vivian Curran's work on the Claims Committee of the General Settlement Fund, and all or part the cost of professional liability and errors and omissions insurance.

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